Mr. Daniel:—

"I beg to support the principle of the Bill. I have to say that the Bill has been introduced into the Council none too soon. We, schoolmasters, who have always to do with children are painfully aware, perhaps more than others, of how greatly this pernicious habit has become prevalent among the lads. Medical men may be able to prove by various methods how injurious it is. But we see with our own eyes how the boys who are using tobacco in large quantities for any length of time deteriorate both in body and mind. The educational authorities evidently became aware of this some years ago, for they issued a circular to the headmasters of the various schools that boys using tobacco in any form should be carefully noted and seriously dealt with. But the schoolmasters have not been able to effectively prevent it. At every turn of the street, there are shops selling cigarettes and snuff, and these have always been an irresistable attraction for boys. Now, a provision of this Bill provides for effective check over selling tobacco and cigarettes to boys under eighteen years of age. I think that, with this additional weapon, it would be easy for schoolmasters at any rate to prevent the spread of this habit.

The Bill itself, as has been pointed out, is comprehensive enough. But the title of the Bill is, 'The Prevention of Juvenile Smoking'. I beg to suggest that it be altered into, 'The Bill to Prevent the Use of Tobacco by Juveniles."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Rajaram Rao, Kuriyan, Krishna Aiyangar, Raman Tampi and the Mover, to report within three months.

Seconded by Mr. Subrahmanya Aiyar.

Carried.

THE FOREST REGULATION AMENDMENT BILL.

Mr. Subba Aiyar, in introducing a Bill to further amend the Travancore Forest Regulation, II of 1068, as amended by Regulations IV of 1071, IX of 1085 and IV of 1089, spoke as follows :—

"Sir,

I beg to introduce a Bill to amend Regulation II of 1068. Under Rule 32 of the Rules for the conduct of business the Bill has been published in the Gazette. In spite of three amending Regulations, some defects have been brought to the notice of Government by the Conservator of Forests. The amendments are based mainly upon the provisions of the Indian Forest Act. I shall explain to the Council some of the important amendments and the reasons that necessitate the same. Clause 1 of the Bill recasts the definition of 'forest produce'. It will be noticed that under the existing Regulation an article will be a forest produce only when it is *found in* or *brought from a forest*. The amendment makes a twofold classification of 'forest produce', the first class including those wherever found and the second class those which are found in or brought from a forest. The object of the amendment is not to impose unnecessary restrictions upon or to interfere in any way with the liberty of the subjects and add to the list of forest offences, but only to make the meaning originally intended by the Legislature clear. It will be conceded that preservation of forests is necessary both in the interests of Government and of the subject. To secure this object in view and to prevent smuggling from Government forests, the Regulation requires that no timber whether from a forest or otherwise shall be transported without a pass. Again in Travancore there are trees which are royalties such as teak and blackwood. These trees, wherever found, whether on Government property or on private registered holdings, are the property of Government and such trees cannot be felled or removed without the permission of Government. Thus then, though 'timber' will be forest produce only when found in or brought from a forest, yet the Regulation deals with *all timber wherever found*. Section 33 empowers the Government to make rules with reference to transport of *all timber* and Section 34 penalises unwarranted interference with royalties *wherever found*. Thus then, under the existing law, dishonest possession in the case of royalties and transport without a pass in the case of all timber are made penal. Royalties being the property of Government it is incumbent upon a person in possession of them to prove that he came by the same honestly. Section 34 (c) therefore provides that "whoever is found in possession of *such* trees or of any produce which is a royalty without having honestly obtained it" shall be liable to imprisonment or fine or to both. In the above clause *'such trees'* mean trees which are royalties. The question for consideration is what is meant by 'trees'. There is no doubt that the Legislature meant to include 'timber' in clause (c), for if 'tree' meant a standing tree it is no offence to be in possession of such standing tree. It means then a tree which has been felled or which has fallen down and under the definition 'timber' includes a 'felled or fallen' tree. Though the Legislature intended to provide for such timber wherever found some difficulty has been experienced by a recent decision of the High Court. In this case the accused was found in possession of some teak materials which he could not account for. He was convicted by the Magistrate and the conviction was upheld in appeal. In revision the conviction was set aside by the High Court. Their Honours in discussing the question whether Section 34 (c) will apply to such a case observe as follows :—"It is not possible to "regard the sawn materials as falling under the term 'trees'. The expression 'tree' is not de"fined in the Forest Regulation, but described in Section 2 as including palms, bamboos, stumps,

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"brushwood and canes. The above description does not cover sawn materials. A tree retains "that name ordinarily only so long as it stands on the earth in its natural state or if it has "fallen or been felled so long as its natural state is not appreciably altered. When a tree has "fallen or is felled and is sawn into pieces it is not usual to call those materials 'trees'. As the "expression 'tree' is not defined in the Regulation it has to be taken in its ordinary sense. "There are also indications in the Regulation itself to suggest that sawn materials are intended "to fall under the category of timber and not under that of trees. Timber is said to include "trees when they have fallen or have been felled and all wood whether cut up or fashioned or "hollowed out for any purpose or not These sawn materials have therefore to be regarded "as timber rather than as trees."

"The only question therefore that arises in this case is whether the petitioner was found "in illicit possession of any forest produce which is a royalty. The term forest produce is "described as including trees, timber, &c., when found in or brought from a forest. In the present "case the teak materials in question were found not in any forest but in the petitioner's yard. "It cannot be said that teak trees grow only in forests. There is absolutely no evidence that "these sawn materials were brought from any forest. In the absence of such evidence the "petitioner cannot be held to have been in possession of any forest produce as that expression "is defined in the Forest Regulation." The result of this judgment will be that, if a large number of trees are felled from a Government Forest, and if such trees are axed or sawn and brought to the nearest compound situated within a few yards from the limits of the forest, the person in possession cannot be convicted even though he is in possession of a large quantity of timber which he cannot account for. Again, if a teak tree stands in a private compound and such tree is felled and sawn in the same compound or in the neighbouring compound, the owner cannot be convicted unless the same was found in or brought from a forest. Timber of royalties standing in private compounds can never be forest produce under the Regulation. If teak were not a royalty it would no doubt be for the prosecution to establish that it is Government property. But if, wherever it may be found, the property in it vests in the Government, it is for the person in possession to explain how he came by it. It is a matter within his knowledge and it is easy for him to have it. There could be no doubt that the Legislature meant to include timber of royalties in Section 34 (*c*) but the wording of the Clause has evidently, as found by the High Court, not been happy. The late Mr. Venugopala Aiyar, Deputy Conservator of Forests, who had the above case prosecuted became anxious about the result which the judgment is likely to produce and he remarked : "Such an interpretation will seriously affect the "interests of Government and I am therefore of opinion that unless prompt steps are taken "towards amending the Regulation the whole country will be soon devoid of teak. It will not, "I venture to submit, be possible to set watch over each tree and protect it. The whole "country is scattered over with teak and when a case in which the accused has felled and converted a tree into logs or scantlings is charged, the accused gets himself scot free. ....." It is with a view to make the intended meaning clear that the twofold classification in the Indian Forest Act has been adopted. Under this definition 'all timber' whether found in or brought from a forest or not will be forest produce. The second class will include articles which will be forest produce only when found in or brought from a forest. It has here to be observed that this definition of forest produce was introduced into the Forest Act by the Government of India in 1890. This definition was therefore in existence at the time when Regulation II of 1068 was passed. The adoption of the definition in the Indian Act in preference to the wording of the Madras Act, which latter is followed in the Regulation, was considered by this Council. It will be found from the proceedings of this Council relating to regulation II of 1068 that the Bill was referred to a Select Committee consisting of Messrs S. Shungrasubba Aiyar, F. Watts, P. Thanu Pillai and T. F. Bourdillon, all eminent and experienced men who knew well the conditions of Travancore. Their view with regard to the definition in the Indian Act may be stated in their own words. They say that "in respect of the first class "the burden of proof is thrown upon the person found in possession of any of them to show "that he got them in a proper manner, while in the second class of articles the burden is as in "criminal cases generally thrown on the prosecution. Every one can see the distinction "between the two classes, but with reference to local conditions it is not so easy to decide "which category should hold such and such articles. The first class should include all articles "for which permits are necessary when they are to be moved or when they are to be held in "possession but these articles like charcoal are free in certain parts of the country. *Timber "should of course come in the first class but beyond that it is not easy to decide.* "After consideration we think that if Section 56 (Sec. 51 of the Regulation) of the "Madras Forest Act is maintained whereby it is presumed that timber or other forest produce is "presumed to be the property of the Government until it has been proved to the contrary then "we need not classify 'forest produce' but we may merely adopt the Section as it stands." Thus then on a consideration of all the facts the conclusion that they arrived at is that 'timber' should be classified under the first head of the Indian Act; but it was not necessary to do so as Section 56 of the Madras Act corresponding to Section 51 of the Regulation is enough to secure the object. If Section 56 of the Madras Act or Section 51 of the Regulation contained the word 'timber' the meaning which they had intended would become quite clear. But the word 'timber' is not found either in the Regulation or in the Madras Act. Thus as the Section stands the presumption will apply only to forest produce which under the existing definition would

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include 'timber' only if found in or brought from a forest. Thus then what the Select Committee thought was enough is not as a matter of fact enough. From the nature of the Select Committee Report it cannot be said that it is now proposed to introduce an innovation for the first time. In the first place it is in the Indian Act. Secondly, the Mysore Regulation contains a similar provision. Thirdly, in Travancore 'teak' is a royalty which is not so elsewhere. If, as has been already observed, teak found in a private garden within the State belongs to Government and the owner can fell or remove it only with the previous sanction of Government there can be absolutely no hardship in demanding from a man in possession of teak timber evidence of how he came by it. So far then as royalties are concerned there can not be any hardship.

The next question for consideration is whether we may go further and adopt the Indian classification approved by the Select Committee that *all timber* whether found in a forest or not should be declared to be a 'forest produce'. The objection to this step will be that it will cause unnecessary hardship to the public and lead to oppression by the forest subordinates. I do not think it will. The Regulation does distinctly provide for Government control over all timber during transport irrespective of the question whether it is taken from Government forests or lands at the disposal of Government or whether they are removed from private holdings. The object of the provision is to prevent smuggling from Government forests and thus safeguard the interests of Government. With regard to all timber it is the *transport* without a pass that is an offence. Mere *possession* of the same after transport is not an offence. In the case, however, of royalties, possession of such timber will be an offence. The case of transport is already provided for by Section 33. The case of possession of timber of royalties is intended to be provided for by the amendment. Extending the definition of the term 'forest produce' will not thus cause any hardship at all. It was therefore that the Select Committee observed that "the first class *should include all articles for which permits are necessary when they are to be moved or when they are to be held in possession*". It is only in the case of a royalty that a permit is necessary for possession. In all other cases permits are necessary *only* for transport. I may here quote the observations of Sir Philip Hutchins in the Imperial Legislative Council in support of the amendment to the definition of forest produce. "A difficulty has arisen from timber having been classed as a species of forest produce only "when it is found in or can be shown to have been brought from a forest. As defined by itself 'timber' includes all wood, but when it is coupled with other forest produce a doubt "arises whether it is not to be restricted to wood which can be proved to have been brought "from a forest. It is generally impossible to prove this in a place outside a forest. And the "word forest itself is indefinite and incapable of definition. Some very eminent authorities consider that nothing should be deemed to be a forest which has not been so constituted "under the Act. This, however, would exclude all private forest and many very extensive "tracts which no one seeing them would hesitate to describe as forest—to which in fact no "other description would be applicable. But if we cannot define forests and must therefore be "be content to leave this point in some uncertainty we can get over the practical difficulty in "a very simple way and that is by classifying as forest produce all timber and certain other "specified articles which are very rarely gathered elsewhere than in a forest and over which it "is essential in the interests of forest administration and of the public to exercise control..... "..... This will in no way enlarge the class of offences committed in respect of forests "constituted under the Act. Chapters II to VI (2 to 4 of the Regulation) will be absolutely "unaffected by the proposed alteration. Its only effect will be to enable Government under "Chapter VII to levy a duty on these special products (this chapter is not adopted in the Regulation) and under Chapter VIII (V of Regulation) to control their transport, without being "under the necessity of showing in every instance that the particular log or consignment was "produced in the indefinite something known as a forest..... ..... The only "way in which private produce will be affected will be that, in localities where the transport "of particular kinds of produce needs to be regulated in order to prevent smuggling, private "owners will be required to take out passes showing that the produce mentioned in the pass "comes from a private holding or has been purchased from a proper forest officer. Without "some such simple procedure private owners will be constantly harassed on the mere supposition that the produce has been smuggled from a Government forest and I therefore repeat "what I stated at the introduction of the Bill that the amendment will be as much for their "advantage as for that of forest administration." From what has been already said it is clear that the proposed alteration will not in any way cause undue hardship to or will give rise to unnecessary oppression of the public. The classification of the Indian Act has therefore been mainly adopted. In doing so 'rubber biscuits or scrap or latex' of rubber trees have also been included.

The next important amendment is with reference to Section 11 of the Regulation. The jurisdiction of the District Court in the matter of appeals under the Regulation is limited to cases where the value of the subject matter is Rs. 500 and below. This was because the Civil Courts Regulation in force at the time permitted the District Court to hear appeals only to the said extent. Now that it has been raised to Rs. 1000 it is but desirable that the same amendment should be made in the Forest Regulation also.

After Section 17 a new Section has been added. Section 15 of the Regulation provides for acquisition of the land with reference to which a claim is admitted. Section 16 provides

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for a right of way or to a watercourse and this has to be provided for. Section 17 deals with rights of pasture and to forest produce. The Section says that the Dewan may come to an agreement or provide for the exercise of the right otherwise. If it is not possible to do so he must have the power to acquire it. No doubt the Section says he may come to an agreement which is not found in the British Indian Acts. If the claimant is unwilling the Dewan will be helpless. Hence a Section empowering the Dewan to commute such right is put in on the lines of Section 13 of the Madras Act and Section 15 of the Imperial Act.

Section 21 A in the Regulation follows Section 78 of the Indian Act. This Section of the Indian Act was recently amended by Act I of 1918. Following the amending Act, Section 21 A has also been amended.

In the existing Regulation there is no provision with reference to the collection of drift and stranded timber. Chapter V (a) has therefore been introduced on the lines of the Indian Act.

Section 36 of the Regulation empowers a forest officer to seize any timber or produce, together with all tools, ropes, boats, carts and cattle if there is reason to believe that a forest offence has been committed with reference to them. Section 47 empowers a forest officer to arrest persons reasonably suspected of having been concerned in a forest offence. Neither Section 36 nor Section 47 empowers the Forest officer to release the property seized or the person arrested. This has led to considerable inconvenience and difficulty. Sections 36 A and 47 A have therefore been added.

Section 46 relating to the killing of elephants has been redrafted as Sections 46 and 46 A to C with a view to making the meaning of the existing Section clear. Some doubt has been thrown as to the burden of proof of circumstances which necessitated the killing of elephants. There has also been some difficulty in interpreting the words 'killing' and 'wounds' in para 1 and 'shooting' and 'wounding' in para 3. The right which every person has in defence of himself or any other person to kill or wound an elephant is not interfered with by the amendment. So far as property is concerned the right does not ordinarily extend to the causing of death. But the circumstances under which a wild elephant may be killed in defence of property may be regulated by rules framed by Government.

Section 56 as it stands saves the Forest officer from a criminal action for anything done *bona fide* under the Regulation. It does not save him from a civil suit for damages. The Indian Act saves the officer from a civil suit. The word 'suit' occurring in the Madras Act has been omitted. In the proceedings of the Council with reference to this omission Mr. Rama Aiyar spoke as follows :—"In my view, this amendment relates "to an important matter. I do not understand why a public servant acting under this Regula- "tion should be saved from civil liability. It is all right to protect a public servant from cri- "minal prosecution for any *bona fide* act of his. But why should a private individual suffer a "loss caused by a public servant, and not be able to recover it from him, if such loss is due to "him otherwise? No doubt there might be cases in which a servant of Government acting on "its behalf may become liable owing to mistake in his judgment. In such a case the Govern- "ment might come to his aid and undertake the liability upon themselves. Anyhow there "can be no reason for depriving a person of his claims, with a view to maintain the efficiency "of the department." I do not think the argument is sound. If a public servant acts *bona fide* under the Regulation why should he be liable in damages? If the Government are liable, let the Government be sued. Why should the public servant suffer? With this Damocles' sword hanging over his head is it possible for a public servant to discharge his duty? Further the public servant ought not to be liable for anything done or purporting to be done *bona fide* under the Regulation. I may add that the policy of the Legislature as evidenced by the laws recently passed is to exempt the Government servant from liability for anything done *bona fide* under the Regulation. I may refer to Section 68 of the Abkari Regulation IV of 1073, Section 79 of the Salt Regulation III of 1088, Section 180 of the Sea Customs Regulation V of 1088, Section 47 of the Land Customs Regulation II of 1091 and Section 33 of Survey and Boundaries Regulation to be passed to-day.

Lastly some difficulty is experienced in the execution of orders by the Forest Settlement Officer or by the appellate court. Section 68 has therefore been drafted for the purpose.

I have now explained, Sir, at some length some of the important amendments and I believe the Council will be convinced of the necessity for such amendments. I therefore beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Raman Pillai.

Mr. Govinda Menon:—

"I beg to accord my support to the motion now before the Council. I recognise the necessity of amending the existing Regulation in certain respects, but I do not see eye to eye with the Mover with regard to the necessity or propriety of some of the changes he wishes to introduce into the existing law. The definition of "forest produce" contained in the Bill before us is sure to produce a radical change in the respective rights and liabilities of the Government and the people in the matter of conservation of forests. The reasons assigned in the Statement of Objects and Reasons attached to the Bill for this sweeping change in the existing law would not for a moment justify such a course and the pleas put forward by the Mover are neither convincing nor appropriate. The far-reaching change which the new definition of 'forest

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produce' would introduce into the permanent law will be clear, if we compare it with the definition of the term in the existing law. 'Forest produce' according to the existing law includes the following things when found in, or brought from a forest, that is to say, minerals (including limestone and laterite), surface soil, trees, timber, leaves, moss, flowers, fruits, seeds, roots, galls, spices, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey and wax, skins, tusks, bones, horns, teeth, claws and silk. The term as it is defined in the Bill before us includes all the above articles and also rubber trees and their various products, no matter whether these "are found in or brought from a forest *or not.*" The words 'or not' in the present definition are simple in themselves, but when construed as part of the definition of the term 'forest produce' they are pregnant with meaning and liable to create great mischief. Many of the things included in the term 'forest produce' are things usually found in the plains also, and hence to put any sort of restriction on the transport of this class of products even when they are of the plains is on principle open to serious objections. But it is this objectionable principle that is followed in the Bill before us. The existing forest laws are themselves oppressive in many respects. They are neither useful for the good of the people nor for the efficient conservation of the forests. They are a constant source of trouble and annoyance to the ryots and their repeal has often been pressed by the public of this country. In this state of affairs, is it wise to enact a law by which every subject of His Highness the Maha Raja is put to the constant dread of a visitation from the underlings of the Forest Department? A close study of the new definition of the term 'forest produce' along with the other Sections of the Regulation will show that I have not in the least exaggerated the evils that may result from the adoption of the new definition. Let me take one instance, and illustrate my view. Timber according to this Bill whether found in or brought from a forest or not is a forest produce. Timber is defined as including 'trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not'. Section 33 empowers the Dewan to prescribe routes by which alone forest produce may be moved within or exported from the State of Travancore, to prohibit the import or export or moving within defined local limits without a pass and to frame rules for doing a host of other things. The result of all these will be that no man could cut down and use any tree standing on his own land, however distant that land might be from the Reserved Forests, without a pass from the forest authorities. This will prove an intolerable state of affairs—intolerable even to the peace-loving inhabitants of this country. There would have been some justification if the royal trees in the plains were classed as 'forest produce'. That this apparently was the object of the Mover could be seen from the Statement of Objects and Reasons, given at the foot of the Bill. But the idea seems to have undergone a subsequent change, for, on no other ground could I find any justification for the lengthy apology which the Mover has brought in for the proposed change in the definition of the term 'forest produce'.

With regard to royal trees, I would earnestly request the exclusion of teak from that class. It is not considered as a royal tree in any part of British India and its inclusion in this country has been practically of no use. The royalty realised at present from these trees is almost *nil*, for, under the present circumstances, no one would care to grow this kind of trees in his land. There is also scarcity I am told, of teak in our forests. There is no question as to the use and economic value of the teak trees, and it is the duty of Government, therefore, to foster its production in this country in every possible way. In these circumstances, there is no reason why this kind of tree should be classed among royal trees and Government would, I trust, view the question in a broad light and put an end to the monopoly they have had hitherto as regards this kind of tree.

There are also other provisions in the Bill which are open to serious objection from the standpoint of the public. I do not, however, wish to deal with them at this stage".

Mr. Krishna Aiyangar:—

"Sir,

The very elaborate statement with which the amending Bill is introduced and the large number of amendments covered by it would suggest that the existing Forest Regulation should be taken as a whole and re-enacted with necessary amendments embodied therein. Now that the Council is not to have an opportunity of considering the bearing of the amendment on other Sections in the Forest Regulations, which are not in any way related to the particular Sections sought to be amended. I believe that it is not open to any Member to move any amendment in any of the Sections which are not comprised in the Bill. If it is a verbal amendment which does not involve a detailed examination of any principle, if it is absolutely non-controversial, there is no difficulty in accepting the Bill and embodying the amendments in the Regulation. But it seems to me that the amendments themselves are as many as twenty-five, many of the Sections comprising a series of subdivisions, and that a fundamental change is sought to be introduced in the scope of the Forest Regulation itself. But I should not be understood as suggesting that there is not much force in the arguments put forward by my friend the Mover. It seems to me that he may be able to make out a very strong case for protecting the interests of Government with reference to royal trees. Whether Government are going to accept the suggestion of my friend Mr. Govinda Menon or not, I dare say that, so long as Government recognise the necessity for reserving certain trees as royal trees, it is only fair that a different rule of concession should be applied where it is an offence relating to royal trees as distinct from other forest produce. But taking advantage of the necessity for amending the Regulation on the strength of a recent decision of the High Court, the Mover has introduced in the Bill

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certain provisions which require a detailed examination and consideration with special reference to their bearing on the existing Forest Regulation. Chapter V A, the one referring to the collection of drift and stranded timber, is entirely a new chapter. I am only referring to it, lest it might be said afterwards that the objection was not pointed out at the time of introducing the Bill. Section 33 C in the Bill says that "all timber found adrift, beached, stranded or sunk, all wood or timber bearing marks which have not been registered under Section 33, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and in such areas as the Government direct, all unmarked wood and timber shall be deemed to be the property of Government unless and until any person establishes his right and title thereto as provided in this Chapter". Certainly the decision of the High Court on the strength of which the necessity for the immediate amendment is rested does not contemplate cases of all unmarked wood and timber in any area that the Government might direct. That struck me as introducing a question of a highly controversial character in the Bill. Attempt is also made to secure for Government Officers and the Government an amount of immunity which cannot be justified on grounds of public interest or public policy. Authority is taken for Government Officers to seize and take the timber. Provision is made for institution of suits for possession of timber by the parties. But the draft Bill takes away the jurisdiction from Courts in the matter of recovery of any compensation or costs. When a tort is committed by a private individual, he is called upon to make good the damages assessed through the Court before which the action is brought. If it is found that Government Officers do not do their duty properly and do it in a slipshod and negligent manner and the party is damnified thereby, is it right to take away the discretion of the Courts to grant compensation therefor? Reading para 3 of Section 33 E, I may just submit that it looks as if Government are afraid of their own judicial officers in the matter of doing justice between the Government and the ordinary litigant. When it is proposed to take away, through the Bill, matters of such a nature, it is discouraging protection to private individuals. That is a serious principle introduced into this Bill. I was listening to my friend, the Mover, when he was quoting a number of statutes in which preferential treatment was accorded to public servants. That only shows that nothing succeeds like success. Because you are able to embody a principle in one Bill, is that principle one which should be accepted for all time to come? Then again, Section 33 G says that Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under Section 33 C, and no forest officer shall be responsible for any loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently. In the case of private employers, certainly, in law, they are answerable for damages resulting from the tortious acts of their agents or servants. Why not Government take the same responsibility with reference to the acts committed by their servants in the course of their duty? This Section naturally violates the private rights of third parties being determined by the Civil Courts. I should not be understood as criticising the proposed measure in any spirit of merely fault-finding. These difficulties struck me when going through the Bill and I want the same to be considered in detail. I am perfectly willing to see that the interests of Government are conserved fairly well. The conservation of the Government interests is the conservation of the interests of the people. What I submit is that, subject to this provision, the scope for harassing private individuals by irresponsible subordinates of the Forest Department ought to be considerably reduced. It is with that view that I make these observations. Then again Clause 12 (Section 21 A) introduces some new provisions which are to enforce something akin to slavery. Under the existing Regulation, the only duty that is made obligatory on the private individuals having the right of pasturage in the forests is that they should communicate the occurrence of fires to the nearest Police Station or to the Forest Officers. The proposed Clause goes further and thrusts upon them the obligation to do all that they can to prevent the spread of the mischief on pain of being convicted for disobedience of any rules that may be issued under the Section. Thus there is ample case made out for taking the Regulation as a whole and revising it and I would ask the Mover to consider whether in the interest of all concerned it would not be satisfactory to do so."

Mr. Gopala Pillai:—

"I am at one with Mr. Krishna Aiyangar in his proposal to revise the whole Regulation instead of taking it piecemeal. The number of amendments brought forward through this Bill is so large that I think it would be better to bring in a revised Bill covering the whole Regulation. That will be giving an opportunity for the Members of this Council to suggest amendments in view of the changes that are sought to be introduced by this Bill. I therefore submit that in the interest of the public the whole Regulation may be taken up for revision. I also oppose the extension of the definition of 'forest produce' to things over which Government have absolutely no manner of title or right. I submit that it is an invasion of the right of private individuals and is not supported by the circumstances which have brought this Bill into existence. It is only the case of teak that prompted the introduction of the Bill. But it is not that alone that forms the subject matter of the Bill. Coming to Clause 12 of the Bill, it is said that because a man has a right of pasturage in a forest, he is bound to take steps to extinguish the fire in such forest. It will be impossible to say what will be the nature of the steps he will have to take. He may be a poor man and he may be charged with not having done anything which is absolutely beyond his powers. The expression used in this Section is so vague as to mean anything and the poor man may come to harm. According to Section 33 I, Government are

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given the power of prescribing penalties for violation of certain rules. I submit that it is the function of the Legislature to fix penalties. This provision is fraught with mischief. On the whole, I think it would be better to revise the whole Regulation and introduce a new Bill."

Mr. Raman Tampi:—

The object of the learned Mover is to see that the rights of the Sirkar are protected as far as possible. Against this, the non-official Members have nothing to say. But then there are certain rights between the Government and the people where scrutiny has to be made. The Bill introduces various uncalled for invasions of private rights. Previous speakers have spoken at length to show that the alteration of the definition of the term 'forest produce' cannot go so far as the learned Mover wants to go. It is only the case of teak that had to be considered. That does not justify the re-opening of the whole question. Looking to the Objects and Reasons, I find that the reason assigned for the amendments in various cases is to bring the law into line with the Government of India Act with regard to the administration of forests. With great respect for my learned friend, the Mover, I submit that that ought not to be a sufficient reason for the amendments sought to be introduced. In the case of the Forest Act, there are various points upon which the Government of India Act differs from the Madras Forest Act. Looking to the chronological table showing the various amending Acts passed in British India, I find that the Government of India Act, I mean, the Imperial Forest Act, was passed in 1878 and that it was amended in 1890, 1891 and recently in 1918. While that Act was in force, it was thought desirable and probably feasible by the Government of Madras to have a different provision in the Madras Forest Act. This Act was passed in 1882 and in spite of repeated amendments of the same, we find that the definition of 'forest produce' that is given in the Madras Act is still without the amendment that is now sought to be introduced in the Bill before us. This is a matter therefore about which a case has not been made out. I concede that, in the matter of royal trees, the amendment may be allowed; but as regards other timber, no case has been made out. Of course, hereafter, if it is brought to the notice of Government or the Council that the working of a particular Section of the Bill in respect of any other kind of timber proves inconvenient and troublesome to the Department, there will be time enough to consider whether it is necessary to put in any amendment. Such a contingency not having arisen, I doubt whether it is advisable to enlarge the scope of the definition on the lines that the Mover wants to take.

With respect to other portions of the Bill to which objection could be taken, my esteemed friend Mr. Krishna Aiyangar has spoken at length about the various Sections. To me it appears that the provision relating to bar of suits against Government in respect of acts done by the subordinates of the Forest Department is absolutely uncalled for. It may be said that Section 33 B provides that in cases where the loss is caused by the negligent, malicious or fraudulent act of the forest officer, he may be held liable for it. But suppose, a *prima facie* case has been made out that in a particular instance an officer had been acting negligently, maliciously or fraudulently and the plaintiff gets a decree for damages. The officer concerned may be a Guard or a Forester, whose pay for any number of years would not be able to meet the amount decreed. In cases where the party is put to extreme loss, why should he be mulcted as regards the fruits of his litigation simply because the Government are not willing to pay up that amount? It is a principle generally conceded that a master is always responsible for the acts of his servants done in the course of his duty, which he does apparently for the benefit of his master. So, the presumption in the case of the Forest Department officers is that they will do things only for the benefit of the Government. The learned Mover starts with the opposite presumption. At any rate he has not been able to quote chapter and verse in respect of any case where trouble arose to Government and to show that an amendment of this kind has been rendered necessary.

Another point about which there has been a note of dissent is with respect to the provisions of the new Chapter V A regarding the collection of drift and stranded timber. We find from this that any kind of timber found anywhere drifted, beached, stranded or sunk may be taken hold of by the Forest Department and taken to the station prescribed by the Department. An enquiry may be proceeded with, and at the end of the enquiry, if it is found that the timber does not belong to the Government, it will have to be returned. The Government are prepared to collect the money due on account of salving, etc., under Section 33 I in respect of the timber seized under this Chapter. But when it comes to the right of the subject, he is deprived of the right of getting compensation from the Government. I submit that this is unjust. I think that the right of the subject should be protected, the same being placed on a par with that of the Government. For these reasons, I beg to submit that I agree with the previous speakers in saying that it would be better to revise the whole Regulation.

Mr. Subba Aiyar :—

"With reference to the observations made in regard to the new definition of 'forest produce', I am glad to see that the non-official Members recognise the necessity for an amendment so far as royalties are concerned. With respect to the observations made by them about the other amendments, I may say that the Government do not desire to take any undue advantage or cause undue hardship to the people. Amendments that are absolutely necessary have alone been put in the Bill. With reference to the revision of the whole Regulation, the amendments which are deemed necessary are before the Council. If when the Bill is considered by the

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